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# HOUSE BILL No. 1311

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-41-6-1; IC 16-41-6-5.

**Synopsis:** HIV testing of patients. Provides that a physician may order that an individual be tested for human immunodeficiency virus (HIV) if a health care provider has accidental direct skin or mucous membrane contact with that individual's blood or body fluids.

**Effective:** July 1, 2002.

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January 15, 2002, read first time and referred to Committee on Public Health.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## HOUSE BILL No. 1311

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A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 16-41-6-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) Except as  
3 provided in subsection (b), a person may not perform a screening or  
4 confirmatory test for the antibody or antigen to the human  
5 immunodeficiency virus (HIV) without the consent of the individual to  
6 be tested or a representative as authorized under IC 16-36-1. A  
7 physician ordering the test or the physician's authorized representative  
8 shall document whether or not the individual has consented.  
9 (b) The test for the antibody or antigen to HIV may be performed if  
10 one (1) of the following conditions exists:  
11 (1) If ordered by a physician who has obtained a health care  
12 consent under IC 16-36-1 or an implied consent under emergency  
13 circumstances and the test is medically necessary to diagnose or  
14 treat the patient's condition.  
15 (2) Under a court order based on clear and convincing evidence  
16 of a serious and present health threat to others posed by an  
17 individual. A hearing held under this subsection shall be held in

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camera at the request of the individual.

(3) If the test is done on blood collected or tested anonymously as part of an epidemiologic survey under IC 16-41-2-3 or IC 16-41-17-10(a)(5).

(4) The test is ordered under section 4 of this chapter.

**(5) The test is ordered under section 5 of this chapter.**

(c) A court may order a person to undergo testing for HIV under IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(16).

SECTION 2. IC 16-41-6-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 5. (a) A physician, upon request of a health care provider who has accidental direct skin or mucous membrane contact with the blood or body fluids of an individual, may order a confidential test for the individual with whom the health care provider has contact to detect the:**

**(1) human immunodeficiency virus (HIV); or**

**(2) antibody or antigen to HIV.**

**(b) If a physician orders a test under subsection (a), the physician shall:**

**(1) notify the individual that a health care provider had an accidental direct skin or mucous membrane contact with the blood or body fluids of the individual;**

**(2) notify the individual of the test; and**

**(3) provide HIV information and counseling to the individual, including the following:**

**(A) The purpose of the test.**

**(B) The risks and benefits of the test.**

**(C) A description of the methods of HIV transmission.**

**(D) Referral information to other HIV prevention, health care, and psychosocial services.**

**(c) The results of the confidential test ordered under subsection (a) must be released to the individual.**

**(d) The state department shall adopt rules under IC 4-22-2 to carry out this section.**

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